

## **Meeting Minutes for Regular City Council Meeting January 28, 2003**

### **Twin Pines Park Senior and Community Center**

#### **REGULAR MEETING - 7:30 P.M.**

#### **ROLL CALL**

Councilmembers Present: Metropulos, Bauer, Warden, Wright

Councilmembers Absent: None

Staff Present: City Manager Kersnar, Assistant City Manager Rich, City Attorney Savaree, Community Development Director Ewing

#### **PLEDGE OF ALLEGIANCE**

Led by City Clerk Cook.

#### **PUBLIC COMMENTS AND ANNOUNCEMENTS**

**Mr. Mike Davis**, Belmont Community Players, announced upcoming Melodrama and invited council and public to attend. He was joined by an entourage of "Diamond Lils" from the show.

#### **COUNCIL MEMBER COMMENTS AND ANNOUNCEMENTS**

**Councilmember Bauer** commented on the budget workshop he attended the previous day, which was hosted by Senator Speier and Assemblyman Mullin. He also announced an open house at Assemblyman Mullin's office in San Mateo on Friday from 4:00 – 7:00 P.M.

**Mayor Wright** stated he also attended the budget workshop, where the Governor's budget and budget-related school issues were discussed. Also discussed at that meeting were tax structure changes, potential tax increases, and the VLF (Vehicle License Fee) issue. The Mayor also stated that the deadline for application for commissions was February 6, and invited everyone to his State of the City address on February 20, a breakfast event hosted by the Chamber of Commerce.

**Action:** On a motion made by Councilmember Warden, seconded by Councilmember Metropulos, the Consent Calendar was approved unanimously by a show of hands.

#### **CONSENT CALENDAR**

**Approval of** meeting minutes: Special and Regular Council Meetings of January 14, 2003.

**Approval of** Warrant List Dated: January 10, 2003, in the total amount of \$1,003,020.08, and January 27, 2003, in the total amount of \$208.567.

**Acceptance of** Written Communication 1) from the Public Utilities Commission dated January 8, 2003, Order Correcting Error in Decision (D) 02-12-073, 2) from the Public Utilities Commission dated January 8, 2003, Opinion on Business and Accounting System Verification Audit.

**Motion to approve** Claims Management Report.

**Motion to waive** reading of Ordinances.

**Approval of** Ordinance 982 amending Section 4.7.11 of the City of Belmont Zoning Code including incorporation of a sliding floor area scale for substandard lots in the HRO-2 (Hillside Residential/Open space) Zoning District that exceed 30% slope (2<sup>nd</sup> reading and adoption).

**Approval of** Resolution 9344 approving an Agreement for Cost Sharing for Supplemental Final Design Services with the City of Redwood City for the Ralston Avenue/Route Interchange Project, City Contract No. 402.

**Approval of** Resolution 9345 approving a Third Amendment to the Professional Services Agreement with Mark Thomas & Company, Inc. for Supplemental Final Design Services for the Ralston Avenue/Route Interchange Project for an amount not to exceed \$490,203, City Contract No. 402.

**Approval of** Resolution 9346 accepting work, approving Contract Change Orders 1-5 and Authorization to Issue Notice of Substantial Completion to Redgwick Construction Company for Waltermire Street/Fifth Avenue Improvement Project, for a total final contract amount not to exceed \$148,610, City Contract No. 417.

**Approval of** Resolution 9347 accepting work, approving Contract Change Orders 1-7, and Authorization to Issue Notice of Substantial Completion to Shaw Pipeline, Inc., for Alameda de las Pulgas/Miller/Monte Cresta Storm Drainage Improvement Project, for a total final contract amount not to exceed \$454,533.35, City Contract No. 434.

**Approval of** Resolution 9348 approving Purchase of Replacement Portable Radio Equipment from Metro Mobile Communications in an amount not to exceed \$14,443.02.

**Approval of** Resolution 9349 approving Purchase a Digital 9-1-1/Radio Recording System from Voice Print International, Inc. in an amount not to exceed \$19,965.40.

**Approval of** Resolution 9350 accepting \$19,182.71 from the State of California State Technology Grant Funding - Law Enforcement Grant (AB1740) and approving the augmentation of the General Fund in that amount.

**Motion to** approve cancellation of August 12, 2003 Council Meeting.

**Motion to** call for a Public Hearing on February 11, 2003 to consider a Downtown Specific Plan Amendment (DTSP), and Zone Text Amendment for the Belmont Atrium Mixed Commercial (Retail/Office) Development at 877 Ralston Avenue.

**Approval of** Resolution 9351 approving the Fifth Amendment to the Professional Services Agreement with T. Y. Lin International, Inc., for Final Design Services for the U.S. Highway 101 Bicycle/Pedestrian Bridge for an amount not to exceed \$569,125, City Contract No. 433.

**Approval of** Resolution 9352 approving renewal of Lease with the 1870 Art Center.

**Approval of** Resolution 9353 approving renewal of Lease with the Creekside Studios.

## **PUBLIC/HEARINGS**

**Consideration of appeal filed on November 16, 2002, by Mr. Brian Howell, regarding Planning Commission action taken on November 6, 2002, denying a Conditional Use Permit for an interior addition for property zoned Planned Development located at 1144 Village Drive, being Lot 2 Tudor Village Townhouse Rsm 103/44, Assessor's Parcel No. 045-521-020.**

Community Development Director Ewing reviewed the applicant's project, which consisted of a 928 square foot addition to an existing 2040 square foot townhouse at 1144 Village Drive. Approval would require an amendment to the Planned Development, which is the zone designation for

this townhouse development. He stated that the Planning Commission had denied the application, an action that was subsequently appealed by the applicant.

Community Development Director Ewing also provided historical information for the townhouses, a Planned Development approved by the City in 1979 and consisting of 10 units plus one lot in common ownership. He further reviewed floor area details of the development and the applicant's project. He also stated that Mr. Howell had already removed 60 cubic yards of grading prior to the submittal of the application for approval.

Community Development Director Ewing further stated that an amendment to a Planned Development must meet the same findings as those of a Conditional Use Permit. Staff was recommending approval based on those findings. He stated that the basis of Planning Commission's denial was that approval would legitimize illegal construction, and would alter the unit size and set a precedent in the development. Staff's recommendation to uphold the appeal was based on the fact that illegal construction is not the basis of the appeal, and size is not an issue.

In answer to Councilmember Warden's question regarding findings for floor area ratio or floor area exceptions, Community Development Director Ewing clarified that the findings for this application are for a Conditional Use Permit, not floor area. He further clarified that CUPs analyze use, not floor area, and that the use is not changing as a result of this application. There is no mechanism to analyze the addition of floor area in the findings for a CUP. He stated that the Planning Commission would be recommending a change in the type of findings for future applications in PD districts.

Council and staff discussion ensued regarding the details of the types of findings to be made for CUPs versus other zone designations.

Mayor Wright opened the Public Hearing.

**Mr. Brian Howell**, applicant and owner at 1144 Village Court, stated he had submitted information in writing on his appeal and acknowledged the illegal excavation, for which he has paid a fine. He feels this project will not have a negative impact to the complex, it is within the footprint, and only a window will be seen from the exterior. The FAR is average, and he has one of the smallest unit and would still have an average sized unit within the complex, even with the addition. Parking is adequate, since he has three spaces.

**Action:** On a motion by Councilmember Bauer, seconded by Councilmember Warden, and unanimously approved by a show of hands, the Public Hearing was closed.

In response to a question from Councilmember Warden regarding excavation and how much he had planned to remove before he applied for a permit, **Mr. Howell** indicated that he had been in the process of getting the building permit, but it took time to find the background material on the development, and he was running into the rainy season and wanted to get as much done as possible. He apologized for going ahead with the work. He further stated that he had obtained a geotechnical report from a soils engineer who confirmed that it was stable soil. He would not have gone forward if the work would jeopardize safety in any way. He stated he got carried away with the excavation. He also advised that he had received approval from the owners of the townhouse development for his project.

Councilmember Warden stated that he was inclined to vote to approve the application, that the zoning ordinance with regard to PD districts should be changed, and supports the recommendation of the Planning Commission to place that item on the priority calendar for future review. Councilmember Metropulos agreed, and further stated that it was not the applicant's fault. City Manager Kersnar acknowledged that it takes a case such as this one to indicate that a change in regulations needs to be made.

**Action:** On a motion by Councilmember Bauer, seconded by Councilmember Metropulos, and unanimously approved by a show of hands, to approve Resolution 9354 upholding the appeal and overturning the Planning Commission's decision to deny an amendment to a Planned Development for the Townhouse at 1144 Village Drive, subject to the conditions in Exhibit "A".

## **OLD BUSINESS**

### **Introduction of Amendments to Chapter 5 of the Municipal Code, Animals and Fowl.**

City Attorney Savaree stated that the proposed changes affected the penalty section of the ordinance, which makes a person who violates any section of the Ordinance guilty of a public nuisance. This is the same language that is contained in the front of the Code book. She further stated that Section 5-2, the Animal Control Program, was handled through a subcontract with the County. These sections of the Code are provided by a model ordinance from the County, which will be modified in the next few months, so no changes were being proposed at this time. In 2000, Council reviewed and revised the

fowl/livestock portion of the Ordinance as a result of a 4-H issue, so no additional revisions to that section were necessary at this time.

Council and staff discussion ensued regarding various definitions contained within the Ordinance.

**Action:** On a motion by Councilmember Warden, seconded by Councilmember Bauer, and unanimously approved by a show of hands, to introduce an ordinance by title amending Chapter 5 of the Belmont Municipal Code, waive further reading, and set seconding reading and adoption for February 11, 2003

## **NEW BUSINESS**

### **Approval of Resolution Urging the State to Honor 1998 Commitment to Restore the Vehicle License Fee.**

Assistant City Manager Rich outlined the financial implications to Belmont's General Fund should the Vehicle License Fee (VLF) not be restored by the Governor. He explained that the VLF was implemented in 1935 in lieu of a local property tax, and in 1986 a Constitution amendment was enacted which guaranteed the fee. In 1998, due to the good economy, the fee was reduced, but was to be restored in lean times. The resolution would urge the legislature to restore the fees.

Council discussion ensued. Councilmember Warden suggested that language be added to the resolution regarding a previous commitment of the Governor not to balance the budget on the backs of the cities. Council concurred.

Assistant City Manager Rich encouraged residents to communicate with their legislators about this matter.

**Action:** On a motion by Councilmember Warden, seconded by Councilmember Bauer, and unanimously approved by a show of hands, the Resolution 9355 Urging the State to Honor 1998 Commitment to Restore the Vehicle License Fee was adopted as amended.

## **ADJOURNMENT 8:30 P.M.**

**Terri Cook**

**City Clerk**

Meeting Tape Recorded & Videotaped

Tape #545